IN THE

Supreme Court of the United States

October Term, 1951

No.

LEIF G. HANSEN,

Petitioner,

against

ARABIAN AMERICAN OIL COMPANY,

Respondent.

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

Statement of Facts

Although the plaintiff resigned from the defendant's employment, the action is, in effect, one for wrongful discharge

The plaintiff was employed by the defendant under a written contract as a "co-pilot". The services of the plaintiff for the defendant were to be rendered in Saudi Arabia or other foreign locality.

The plaintiff relies wholly and solely on the written contract, a copy whereof is attached to the complaint. The complaint alleges that it was implied in said contract that the airplanes which the plaintiff would be asked to fly for the defendant would be flown and maintained in conformity with the safety regulations of the Civil Aeronautics Authority of the United States Government.

An inspection of the contract reveals that it does not contain any such implication.

The plaintiff was examined before trial by the defendant. Although the plaintiff relies wholly and solely on the written contract, the plaintiff was permitted on said examination before trial to testify concerning any oral representations which he claimed had been made to him before or at the time of the making of the contract concerning the maintenance of the airplanes which he would be asked to fly for the defendant. The plaintiff testified that the only representations which had been made to him were to the effect that the airplanes which he would be asked to fly would be licensed by the United States Government. The plaintiff further testified that the airplanes which he was asked by the defendant to fly were, in fact, licensed by the United States Government.

The defendant moved for summary judgment, setting forth the above facts.

Although the plaintiff in his petition for a writ of certiorari states that a treaty is involved, the plaintiff did not make any such claim in the District Court.

The District Court granted the motion of the defendant for summary judgment and entered judgment dismissing the complaint. The plaintiff appealed to the United States Court of Appeals for the Second Circuit and the judgment of the District Court was affirmed.

POINTS AND AUTHORITIES

POINT I

No statute is involved.

Although the petition for the writ of certiorari states that 49 U. S. C. A. 401 is involved, such is not the case. By the very terms of the statute which are quoted in the Appendix to the plaintiff's petition for a writ of certiorari, it appears that the statute insofar as the plaintiff relies thereon is not applicable. There is no allegation and no proof in the record of this case that the defendant is engaged in the carriage by aircraft of persons or property for compensation or hire, or the carriage of mail by aircraft or the operation or navigation of aircraft in the conduct or furtherance of a business or vocation in commerce between a place in the United States and any place outside thereof (Civil Aeronautics Authority Act of 1938 defining "interstate air commerce", "overseas air commerce" and "foreign air commerce", respectively). Since the defendant was not engaged in any type of commerce as defined by the Civil Aeronautics Authority Act of 1938, no section of said Act relied upon by the plaintiff can be applicable.

POINT II

No treaty is involved.

Although the petition for the writ of certiorari states that the Chicago Convention of December 7, 1944, Article 31, is involved, such is not the case. That portion of the Convention is quoted on page 8 of the petition and it appears from the quotation itself that the quotation is not applicable. The aircraft which the plaintiff was asked by

the defendant to fly were not engaged in "internation navi-
gation" which is the subject matter of the article that
treaty to which reference is made.

At all events, the Court of Appeals in its opinio elow
gave the complete answer to the argument based the
treaty referred to when it pointed out that Saudi A bia,
the place where the airplanes were to be and actuall vere
flown, is not a party to the treaty.

The Court of Appeals also pointed out significa y in
its opinion below that Section 1 of the treaty itself cog-
nizes the supremacy of the law of each of the signa ries
and *a fortiori* of Saudi Arabia which is not a signato .

POINT III

The decision below turns on its own facts; uld affect but few persons; and would be binding on on the parties hereto.

The facts involved in the case at bar are specia and
peculiar to the case itself. The case involves a quest n of
private contract only. The Courts below were called pon
to determine the single question whether or not it wa im-
plied in the contract sued upon that the airplanes hich
the plaintiff should fly should be flown and maintain in
conformity with the regulations of the Civil Aeron tics
Authority of the United States Government.

Until another contract identical with the one a bar
may become the subject of litigation, the holding in this
case cannot serve as a rule or guide for any other cas

CONCLUSION

The petition for a writ of certiorari to the United States Court of Appeals for the Second Circuit should be denied.

Respectfully submitted,

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Attorney for Respondent.

THOMAS F. BARRY,
of Counsel.